

[Third Reprint]

SENATE, No. 795

STATE OF NEW JERSEY

210th LEGISLATURE

INTRODUCED JANUARY 24, 2002

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Senator JOSEPH A. PALAIA

District 11 (Monmouth)

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman JOSEPH V. DORIA, JR.

District 31 (Hudson)

Assemblyman MATT AHEARN

District 38 (Bergen)

Assemblyman PAUL SARLO

District 36 (Bergen, Essex and Passaic)

Assemblyman DAVID W. WOLFE

District 10 (Monmouth and Ocean)

Assemblywoman ROSE MARIE HECK

District 38 (Bergen)

Co-Sponsored by:

Assemblywoman Pou, Assemblymen Burzichelli, Fisher, Assemblywoman Greenstein, Assemblyman Guear, Assemblywomen Perez-Cinciarelli, Previte, Assemblymen R.Smith, Van Drew, Wisniewski, Senators Sacco and Inverso

SYNOPSIS

Strengthens screening procedures for school bus drivers.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on February 3, 2003, with amendments.

(Sponsorship Updated As Of: 3/21/2003)

1 AN ACT concerning the qualifications of school bus drivers, amending
2 various parts of the statutory law and supplementing chapter 39 of
3 Title 18A of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 12 of P.L.1998, c.31 (C.18A:6-7.1c) is amended to read
9 as follows:

10 12. A board of education or contracted service provider may
11 employ an applicant on an emergent basis for a period not to exceed
12 three months, pending completion of a criminal history records check
13 and, with respect to a bus driver applicant, a check for the driver's
14 record of alcohol and drug-related motor vehicle violations pursuant
15 to section 6 of P.L.1989, c.104 (C.18A:39-19.1), if the board or
16 service provider demonstrates to the Commissioner of Education that
17 special circumstances exist which justify the emergent employment.
18 The board's or service provider's request to the commissioner shall
19 include: (1) a description of the vacant position that needs to be filled;
20 (2) a statement describing the board's or contract provider's good faith
21 efforts to fill the position on a timely basis or a statement describing
22 the unanticipated need for the applicant's employment; and (3) a sworn
23 statement submitted by the applicant attesting that the applicant has
24 not been convicted or does not have a charge pending for a crime or
25 any other offense enumerated in section 1 of P.L.1986, c.116
26 (C.18A:6-7.1) or a record of alcohol and drug-related motor vehicle
27 violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1).

28 In the event that the background check is not completed within
29 three months, the board or contracted service provider may petition
30 the commissioner for an extension of time, not to exceed two months,
31 in order to retain the employee.

32 (cf: P.L.1998, c.31, s.12)

33
34 2. N.J.S.18A:39-17 is amended to read as follows:

35 18A:39-17. In each school year, prior to the assignment of any
36 driver or substitute driver to any vehicle operated by the board of
37 education of any district as a school bus, there shall be filed by the
38 secretary of such board with the county superintendent the name and
39 social security number of each such driver or substitute driver and
40 certification of a valid school bus driver's license [and], criminal

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SED committee amendments adopted September 9, 2002.

² Assembly AED committee amendments adopted November 25, 2002.

³ Assembly AAP committee amendments adopted February 3, 2003.

1 background check, and evidence of a check for the driver's record of

1 alcohol and drug-related motor vehicle violations pursuant to section
2 6 of P.L.1989, c.104 (C.18A:39-19.1).

3 (cf: P.L.1989, c.104, s.1)

4
5 3. N.J.S.18A:39-18 is amended to read as follows:

6 18A:39-18. In each school year, prior to the beginning of
7 transportation of school pupils under a contract awarded by a board
8 of education, the contractor shall furnish to the county superintendent
9 the name, social security number, and certification of a valid school
10 bus driver's license and criminal background check, and evidence of a
11 check for the driver's record of alcohol and drug-related motor vehicle
12 violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1)
13 of each driver or substitute driver to be assigned to any vehicle in the
14 performance of his contract.

15 (cf: P.L.1989, c.104, s.2)

16
17 4. Section 6 of P.L.1989, c.104 (C.18A:39-19.1) is amended to
18 read as follows:

19 6. a. Prior to employment as a school bus driver, and upon
20 application for renewal of a school bus driver's license, a bus driver
21 shall submit to the Commissioner of Education his or her name,
22 address and fingerprints ²[taken on standard fingerprint cards by a
23 law enforcement agency] in accordance with procedures established
24 by the commissioner². No criminal history record check or check for
25 alcohol and drug-related motor vehicle violations shall be furnished
26 without his or her written consent to such a check. The applicant shall
27 bear the cost for the [criminal history record check] checks, including
28 all costs for administering and processing the [check] checks.

29 Upon receipt of the criminal history record information for an
30 applicant from the Federal Bureau of Investigation and the Division of
31 State Police, and information on the check for alcohol and drug-
32 related motor vehicle violations from the Division of Motor Vehicle
33 Services, the Commissioner of Education shall notify the applicant, in
34 writing, of the applicant's qualification or disqualification as a school
35 bus driver. If the applicant is disqualified, the convictions which
36 constitute the basis for the disqualification shall be identified in the
37 written notice to the applicant. A school bus driver, except as provided
38 in subsection e. of this section, shall be permanently disqualified from
39 employment or service if the individual's criminal history record
40 reveals a record of conviction for which public school employment
41 candidates are disqualified pursuant to section 1 of P.L.1986, c.116
42 (C.18A:6-7.1) or if the driver has been convicted at least two times
43 within ³the last³ 10 years for a violation of R.S.39:4-50, section 2
44 of P.L.1981, c.512 (C.39:4-50.4a), section 5 of P.L.1990, c.103
45 (C.39:3-10.13), or section 16 of P.L.1990, c.103 (C.39:3-10.24); or
46 once for a violation of section 5 of P.L.1990, c.103 (C.39:3-10.13) or

1 section 16 of P.L.1990, c.103 (C.39:3-10.24) while transporting
2 school children. A school bus driver shall not be eligible to
3 operate a school bus if the individual's bus driver's license is currently
4 revoked or suspended by the Division of Motor Vehicle Services in
5 accordance with R.S.39:3-10.1.

6 ²Following qualification for employment as a school bus driver, the
7 Division of Motor Vehicle Services shall immediately forward to the
8 Commissioner of Education any information which the division
9 receives on a conviction for an alcohol or drug-related motor vehicle
10 violation that would disqualify the driver from ³[initial] ³employment
11 pursuant to the provisions of this subsection. The commissioner shall
12 notify the employing board of education or contractor that the driver
13 is no longer eligible for employment.²

14 b. Notwithstanding the provisions of this section, an individual
15 shall not be disqualified from employment or service under this act on
16 the basis of any conviction disclosed by a criminal history record check
17 or a check for alcohol and drug-related motor vehicle violations
18 performed pursuant to this section without an opportunity to challenge
19 the accuracy of the disqualifying [criminal history record] records.

20 c. When charges are pending for a crime or any other offense
21 enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1) ¹[or for an
22 alcohol or drug-related motor vehicle violation] ¹, the employing board
23 of education or contractor shall be notified that the candidate may not
24 be eligible for employment until the commissioner has made a
25 determination regarding qualification or disqualification upon
26 adjudication of the pending charges.

27 d. The applicant shall have ²[14] ²30 days from the date of the
28 written notice of disqualification to challenge the accuracy of the
29 criminal history record information or the record of convictions for an
30 alcohol or drug-related motor vehicle violation. If no challenge is filed
31 or if the determination of the accuracy of the criminal history record
32 information or the record of convictions for an alcohol or drug-related
33 motor vehicle violation upholds the disqualification, notification of the
34 applicant's disqualification for employment shall be forwarded to the
35 Division of Motor Vehicle Services. The local board of education or
36 the school bus contractor and the County Superintendent of Schools
37 shall also be notified of the disqualification. Notwithstanding the
38 provisions of any law to the contrary, the Director of the Division of
39 Motor Vehicle Services shall, upon notice of disqualification from the
40 Commissioner of Education, immediately revoke the applicant's special
41 license issued pursuant to R.S.39:3-10.1 without necessity of a further
42 hearing. Candidates' records shall be maintained in accordance with
43 the provisions of section 4 of P.L.1986, c.116 (C.18A:6-7.4).

44 e. This section shall first apply to criminal history record checks
45 conducted on or after the effective date of P.L.1998, c.31
46 (C.18A:6-7.1c et al.); except that in the case of a school bus driver

1 employed by a board of education or a contracted service provider
2 who is required to undergo a check upon application for renewal of a
3 school bus driver's license, the individual shall be disqualified only for
4 the following offenses:

5 (1) any offense enumerated in this section prior to the effective
6 date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

7 (2) any offense enumerated in this section which had not been
8 enumerated in this section prior to the effective date of P.L.1998, c.31
9 (C.18A:6-7.1c et al.), if the person was convicted of that offense on
10 or after the effective date of that act.

11 ²f. (1) Notwithstanding any provision of this section to the
12 contrary, the check for alcohol and drug-related motor vehicle
13 violations shall be conducted in accordance with the provisions of this
14 section prior to initial employment as a school bus driver and upon
15 application for renewal of a school bus driver's license until such time
16 as the provisions of the "Motor Carrier Safety Improvement Act of
17 1999," Pub. L. 106-159, are effective and implemented by the State.

18 (2) Notwithstanding any provision of this section to the contrary,
19 upon the implementation by the State of the "Motor Carrier Safety
20 Improvement Act of 1999," Pub. L. 106-159, a check for alcohol and
21 drug-related motor vehicle violations shall be conducted in accordance
22 with the provisions of this section prior to initial employment as a
23 school bus driver. A check for alcohol and drug-related motor vehicle
24 violations conducted for any subsequent renewal of a school bus
25 driver's license shall be subject to the provisions of the "Motor Carrier
26 Safety Improvement Act of 1999," Pub. L.106-159.

27 (3) Upon the implementation by the State of the "Motor Carrier
28 Safety Improvement Act of 1999," Pub. L. 106-159, following
29 qualification for employment as a school bus driver, the Division of
30 Motor Vehicle Services shall immediately notify the Commissioner of
31 Education of the suspension or revocation of a school bus driver's
32 commercial driver's license. The commissioner shall notify the
33 employing board of education or contractor of the suspension or
34 revocation, and the employment of the school bus driver shall be
35 immediately terminated. In the case of school bus driver whose
36 commercial driver's license has been suspended, the driver may apply
37 for re-employment at the end of the period of suspension.²

38 (cf: P.L.1998, c.31, s.10)

39
40 5. N.J.S.18A:39-20 is amended to read as follows:

41 18A:39-20. No board of education or contractor shall ²knowingly²
42 approve or ²knowingly² assign an individual, as a driver or substitute
43 driver of a school bus, without first complying with the provisions of
44 this chapter, and any person violating, or failing to comply with such
45 provisions shall be [guilty of a disorderly persons offense and] subject
46 to a fine of not more than [\$500.00] \$5,000 for each driver unlawfully

1 approved or assigned.

2 (cf: P.L.1998, c.31, s.11)

3 6. (New section) In addition to any other penalty provided by law,
4 a school bus driver who violates section 5 of P.L.1990, c.103 (C.39:3-
5 10.13) or section 16 of P.L.1990, c.103 (C.39:3-10.24) while
6 transporting school children shall be guilty of a disorderly persons
7 offense.

8 Notwithstanding any other provision of law to the contrary, a
9 conviction under this section shall not merge with a conviction for a
10 violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a),
11 section 5 of P.L.1990, c.103 (C.39:3-10.13) or section 16 of
12 P.L.1990, c.103 (C.39:3-10.24).

13

14 7. This act shall take effect on the first day of the sixth month after
15 enactment; except that the State Board of Education and the Division
16 of Motor Vehicle Services may take such administrative and regulatory
17 action in advance as shall be necessary to implement the provisions of
18 this act.